

records on deposit activities in any format that is consistent with standard business practices.

PART 158 [RESERVED]

PART 159—SUBORDINATE ORGANIZATIONS

Sec.

159.1 What does this part cover?

159.2 Definitions.

159.3 What are the characteristics of, and what requirements apply to, subordinate organizations of Federal savings associations?

159.4 What activities are preapproved for service corporations?

159.5 How much may a Federal savings association invest in service corporations or lower-tier entities?

159.10 How must separate corporate identities be maintained?

159.11 What notices are required to establish or acquire a new subsidiary or engage in new activities through an existing subsidiary?

159.12 How may a subsidiary of a Federal savings association issue securities?

159.13 How may a Federal savings association exercise its salvage power in connection with its service corporation or lower-tier entities?

AUTHORITY: 12 U.S.C. 1462, 1462a, 1463, 1464, 1828, 5412(b)(2)(B).

SOURCE: 76 FR 49025, Aug. 9, 2011, unless otherwise noted.

§ 159.1 What does this part cover?

(a) The OCC is issuing this part 159 pursuant to its general rulemaking and supervisory authority under the Home Owners' Loan Act, 12 U.S.C. 1462 *et seq.*, and its specific authority under section 18(m) of the Federal Deposit Insurance Act, 12 U.S.C. 1828(m). This part 159 applies to subordinate organizations of Federal savings associations. The OCC may, at any time, limit a Federal savings association's investment in any of these entities, or may limit or refuse to permit any activities of any of these entities for supervisory, legal, or safety and soundness reasons.

(b) Notices under this part are applications for purposes of statutory and regulatory references to "applications." Any conditions that the OCC imposes in approving any application are enforceable as a condition imposed

in writing by the OCC in connection with the granting of a request by a Federal savings association within the meaning of 12 U.S.C. 1818(b) or 1818(i).

§ 159.2 Definitions.

For purposes of this part:

Control has the same meaning as in part 174 of this chapter.

GAAP-consolidated subsidiary means an entity in which a Federal savings association has a direct or indirect ownership interest and whose assets are consolidated with those of the savings association for purposes of reporting under Generally Accepted Accounting Principles (GAAP). Generally, these are entities in which the savings association has a majority ownership interest.

Lower-tier entity includes any company in which an operating subsidiary or a service corporation has a direct or indirect ownership interest.

Operating subsidiary means any entity that satisfies all of the requirements for an operating subsidiary set forth in §159.3 of this part and that is designated by the parent Federal savings association as an operating subsidiary pursuant to §159.3 of this part. More than 50% of the voting shares of an operating subsidiary must be owned, directly or indirectly, by a Federal savings association and no other person or entity may exercise effective operating control. An operating subsidiary may only engage in activities permissible for a Federal savings association.

Ownership interest means any equity interest in a business organization, including stock, limited or general partnership interests, or shares in a limited liability company.

Service corporation means any entity that satisfies all of the requirements for service corporations in 12 U.S.C. 1464(c)(4)(B) and §159.3 of this part and that is designated by the investing Federal savings association as a service corporation pursuant to §159.3 of this part. A service corporation must be organized under the laws of the state where the Federal savings association's home office is located, may only be owned by savings associations with home offices in that state, and may engage in the activities identified in §§159.3(e)(2) and 159.4 of this part.

Subordinate organization means any corporation, partnership, business trust, association, joint venture, pool, syndicate, or other similar business organization in which a Federal savings association has a direct or indirect ownership interest, unless that ownership interest qualifies as a pass-through investment pursuant to §160.32 of this chapter and is so designated by the investing savings association.

Subsidiary means any subordinate organization directly or indirectly controlled by a Federal savings association.

§ 159.3 What are the characteristics of, and what requirements apply to, subordinate organizations of Federal savings associations?

A Federal savings association (“you”) that meets the requirements of this section, as detailed in the following chart, may establish, or obtain an interest in an operating subsidiary or a service corporation. For ease of reference, this section cross-references other regulations in this chapter affecting operating subsidiaries and service corporations. You should refer to those regulations for the details of how they apply. The chart also discusses the regulations that may apply to lower-tier entities in which you have an indirect ownership interest through your operating subsidiary or service corporation. The chart follows:

	Operating subsidiary	Service corporation
(a) How may a Federal savings association (“you”) establish an operating subsidiary or a service corporation?	(1) You must file a notice, with the appropriate OCC licensing office, satisfying §159.11. Any finance subsidiary that existed on January 1, 1997 is deemed an operating subsidiary without further action on your part.	(2) You must file a notice, with the appropriate OCC licensing office, satisfying §159.11. Depending upon your condition and the activities in which the service corporation will engage, §159.3(e)(2) may require you to file an application.
(b) Who may be an owner?	(1) Anyone may have an ownership interest in an operating subsidiary.	(2) Only Federal or state chartered savings associations with home offices in the state where you have your home office may have an ownership interest in any service corporation in which you invest.
(c) What ownership requirements apply?	(1) You must own, directly or indirectly, more than 50% of the voting shares of the operating subsidiary. No one else may exercise effective operating control.	(2) You are not required to have any particular percentage ownership interest and need not have control of the service corporation.
(d) What geographic restrictions apply?	(1) An operating subsidiary may be organized in any geographic location.	(2) A service corporation must be organized in the state where your home office is located.
(e) What activities are permissible?	(1) After you have notified the OCC in accordance with §159.11, an operating subsidiary may engage in any activity that you may conduct directly. You may hold another insured depository institution as an operating subsidiary.	(2)(i) If you are eligible for expedited treatment under §116.5 of this chapter, and notify the OCC as required by §159.11, your service corporation may engage in the preapproved activities listed in §159.4. You may request OCC approval for your service corporation to engage in any other activity reasonably related to the activities of financial institutions by filing an application in accordance with standard treatment processing procedures at part 116, subparts A and E of this chapter.